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EXAMINER

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SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/075,730	Applicant(s) MCKIRCHY, KAREN A.	
	Examiner Kieu D. Vu	Art Unit 2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to the Amendment filed on 01/05/07.
2. The Declaration under CFR 1.131 and CFR 1.132 filed on 08/07/06 has been reviewed by the Examiner.
3. The Affidavits filed on 07/15/05, 08/07/06, and 10/06/06 under 37 CFR 1.131 have been considered but is ineffective to overcome Cook et al (USP 5727950) and Hatakama (US 5774118) references.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of Cook et al (USP 5727950) and Hatakama (US 5774118) references. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The evidence contains general allegation and does not specifically demonstrate how conception is established, therefore, the evidence is deficient in showing of conception.

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of Cook et al (USP 5727950) and Hatakama (US 5774118). Exhibit A contains only Applicant's statements. Exhibits B and C only show copies of US Copyright Registration but fail to show the copyrighted content. Exhibit D is deficient in showing of the

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copyrighted content of exhibits B and C. Exhibits E, F, G, H, I, J, and K are insufficient to evidence that the invention is indeed the subject matter presented in the exhibits.

The Declaration under 37 CFR 1.132 filed 08/07/06 is insufficient to overcome the rejections of claims based upon Cook et al (USP 5727950) and Hatakama (US 5774118) references applied under USC 102 and USC 103 as set forth in the last Office action because the evidence submitted is insufficient to prove that the commercial success is directly derived from the invention claimed.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 16-20 and 35-41 are rejected under 35 U.S.C. 101

Regarding claims 16-20 and 35-41, the language of the claims is non-functional descriptive material. Furthermore, the "interactive learning system" as claimed does not belong into any one of four statutory categories (process, machine, manufacture, or composition of matter).

6. To expedite a complete examination of the instance application, the claims rejected under 35 USC 101 (non-statutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4, 9-11, 14, 24, and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Hatakama et al ("Hatakama", USP 5774118).

Regarding claim 1, Hatakama teaches a method of providing instruction to a user of an instructional program comprising presenting an interactive instructional program to the user via an information processing device (method of displaying help information matching characteristics of a user) (see column 2, lines 41-45), the program having a plurality of sections related to a subject (the program has several sections, for example, section Word-processor A, section Word-processor B, section Word-processor C) (Fig. 4); making available to the user additional instructional options to the user related to a section (instructional help options: Entry level, Intermediate Level, or Proficient Level) (see Fig. 4) (see col 9, line 59 to col 10, line 3) (see col 6, lines 50-54) (also see column 10, lines 5-9); the additional instructional options including information presented to the user in a form perceivable by the user at a first level of sophistication (information presented to the user at entry level), additional instructional information available to the user in at least first and second levels of sophistication, any of the at least first and second levels of sophistication being user selectable, at any time in any order (information presented to the user at intermediate level) (see column 11, lines 7-12) (See Fig. 2 and Fig. 7), (information presented to the user at entry level or intermediate

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level or proficient level), (the user can select the levels of sophistication at any time he or she desires, see column 6, lines 34-50) (entry level is different from intermediate level or proficient level) (see Fig. 4).

Regarding claim 2, Hatakama teaches that the first level of sophistication comprises information at a first level of comprehension (first level of sophistication is entry level which comprises information at entry level) (see Fig. 2).

Regarding claim 3, Hatakama teaches that the second level of sophistication comprises information at a second level of comprehension (second level of sophistication is intermediate level which comprises information at intermediate level) (see Fig. 2).

Regarding claim 4, Hatakama teaches that the second level of comprehension is at a higher level than the first level of comprehension (information at intermediate level is more difficult to understand than information at entry level).

Regarding claim 9, Hatakama teaches that each level of sophistication has one detail of information attribute that differs from the other level of sophistication. For example, detail of information of entry level is different than the detail of information in intermediate level (see figures 2-4, col. 8, line 43 to col. 10, line 32).

Regarding claim 10, Hatakama teaches that information is presented to the user in a form perceivable by the user at least a third level of sophistication (information presented to the user at proficient level) (col 11, lines 7-17).

Regarding claim 11, Hatakama teaches an apparatus for providing additional instruction to a user of an instructional program (device for displaying help information

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matching characteristics of a user) (see column 2, lines 41-45) (also see column 10, lines 5-9) comprising a computer including a digital information storage medium (see memory 3 in Fig. 1) and a software program (help-display displaying unit 11) (see Fig. 1) loaded on the digital storage medium (see Figure 1, col 4, lines 17-26) the program comprising

(a) interactive instructional information relating to a subject matter (help-displaying display unit shows help display on the display unit 12) (col 4, lines 39-40).

(b) an instruction module including additional instructional options related to the plurality of sections, the additional instructional options including additional instructional information available to the user in no less than two levels of sophistication, any of the levels of sophistication being user-selectable, at any time and in any order (help-displaying display unit is a module (col 4, lines 39-40), help-displaying display unit generates an appropriate help display for the user (col 6, lines 48-50), for example entry level or intermediate level (see col 9, line 59 to col 10, line 3)) (help information can be text, images, or voice) (see col 6, lines 6-13), (information presented to the user at entry level or intermediate level or proficient level), (the user can select the levels of sophistication at any time he or she desires, see column 6, lines 34-50) (entry level is different from intermediate level or proficient level) (see Fig. 4) (section Word-processor A, section Word-processor B, section Word-processor C) (Fig. 4).

Regarding claim 14, Hatakama teaches that the two levels of sophistication include a first level (entry level) comprising a first textual content (information presented to the user at entry level) and a second level (intermediate level) comprising a second

textual content (information presented to the user at intermediate level) (see col 11, lines 7-12) (also see Fig. 2 and Fig. 7).

Regarding claims 24 and 31, Hatakama teaches the information comprises instruction and questions related to the subject (see Fig. 4)

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5-8, 12-13, 15-20, and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatakama and Cook et al ("Cook", USP 5727950).

Regarding claims 5 and 6, Hatakama teaches at least two levels of sophistication of the help information (entry level and intermediate level). Hatakama further teaches that help information can include voice (Hatakama, col 6, lines 6-13). Hatakama differs from the claim in that Hatakama does not teach that the first level of sophistication comprises a first type of voice and/or the second level of sophistication comprises a second type of voice. However, Cook teaches that plurality of voices/gestures/motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second type of voices in Hatakama's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 7, Hatakama teaches that the help information can include voice (Hatakama, col 6, lines 6-13). Hatakama further teaches that the entry level of sophistication has certain attributes including entry-level, basic, low-educational attributes (see entry-level, basic, and low-educational operations such as conversion/non-conversion and cursor movement). Hatakama differs from the claim in that Hatakama does not clearly teach different voices that express these attributes. However, such features are found in Cook. First of all, Cook teaches the use of plural voices depending on different students (different levels), and different characters (see col 6, lines 13-16). Cook further teaches different emotional types including sad, objective, pleased, happy, disappointed, announce, remind, encourage, reinforce, model, prompt, hint, joke, and tutor, etc. These different emotional types would be conveyed by different voices (col 60, lines 5-14). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of different emotional types and voices to express certain attributes including one or more of entry-level, basic, low-educational attributes, summary fashion, brusque voice and deep voice in Hatakama's help system with the motivation being to aurally enhance the customization of entry-level help levels.

Regarding claim 8, Hatakama teaches that the help information can include voice (Hatakama, col 6, lines 6-13). Hatakama further teaches second level of sophistication

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has certain attributes including high educational, more complex language, detailed attributes (see intermediate-level, complex language, and high-educational operations such as Chinese character dictionary, word addition to dictionary, previous page/next page movement, and end-of-sentence operations). Hatakama differs from the claim in that Hatakama does not clearly teach different voices that express these attributes. However, such features are found in Cook. First of all, Cook teaches the use of plural voices depending on different students (different levels), and different characters (see col 6, lines 13-16). Cook further teaches different emotional types including sad, objective, pleased, happy, disappointed, announce, remind, encourage, reinforce, model, prompt, hint, joke, and tutor, etc. These different emotional types would be conveyed by different voices (col 60, lines 5-14). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of different emotional types and voices to express certain attributes including one or more of long, high educational, more complex language, detailed, relaxed voice in Hatakama's help system with the motivation being to aurally enhance the customization of intermediate help levels.

Regarding claim 12, Hatakama teaches at least two levels of sophistication of the help information (entry level and intermediate level). Hatakama further teaches that help information can include voice (Hatakama, col 6, lines 6-13). Hatakama differs from the claim in that Hatakama does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice. However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student.

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These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Hatakama's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 13, Hatakama teaches that the two levels of sophistication include a first level (entry level) and a second level (intermediate level). Hatakama further teaches that help information can include motion images (Hatakama, col 6, lines 6-13). Hatakama does not teach that the first level of sophistication comprises a first character and a second level comprises a second character. However, the use of characters in instructional help technique is known in the art as taught by Cook. Specifically, Cook teaches an agent based instruction system which provide student with virtual tutors or on-screen agents (col 5, lines 21-24). The on-screen agents can appear as living entities appropriate for level of a student (for example, "Study Buddies" are on-screen agents of grade schoolers (first character for first level) or a coach is on-screen agent of an adult (second character for second level)) (see col. 5, line 67 to col 6, line 12). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to apply Cook's teaching of using different characters for different levels and/or different students to provide a first character and a second character for the two levels in Hatakama's learning system with the motivation being to

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enhance customized and individualized instructional help method (Cook, col 5, lines 12-19).

Regarding claim 15, Hatakama teaches at least two levels of sophistication of the help information (entry level and intermediate level). Hatakama further teaches that help information can include voice (Hatakama, col 6, lines 6-13). Hatakama further teaches that the two levels of sophistication include a first level (entry level) comprising a first textual content (information presented to the user at entry level) and a second level (intermediate level) comprising a second textual content (information presented to the user at intermediate level) (see col 11, lines 7-12) (also see Fig. 2 and Fig. 7).

Hatakama differs from the claim in that Hatakama does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice. However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Hatakama's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 16, Hatakama teaches an interactive learning system (device for displaying help information matching characteristics of a user) (see column 2, lines 41-

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45) comprising a lesson in the form of information that can be viewable and perceivable by a user on a computer (help display on the display unit 12) (col 4, lines 39-40), help can be text, images, or voice (see col 6, lines 6-13), learning assistance that can be viewable and perceivable by a user on a computer, (help-displaying display unit generates an appropriate help display for the user (col 6, lines 48-50), for example entry level or intermediate level (see col 9, line 59 to col 10, line 3)), the additional instructional options including additional instructional information available to the user in no less than two levels of sophistication, any of the levels of sophistication being user-selectable, at any time and in any order (help-displaying display unit is a module (col 4, lines 39-40), help-displaying display unit generates an appropriate help display for the user (col 6, lines 48-50), for example entry level or intermediate level (see col 9, line 59 to col 10, line 3)) (help information can be text, images, or voice) (see col 6, lines 6-13), (information presented to the user at entry level or intermediate level or proficient level), (the user can select the levels of sophistication at any time he or she desires, see column 6, lines 34-50) (entry level is different from intermediate level or proficient level) (see Fig. 4) (section Word-processor A, section Word-processor B, section Word-processor C) (Fig. 4). Hatakama does not teach that the lesson and the learning assistance are on digital media. However, storing help information in digital media is known in the art as taught by Cook. Specifically, Cook teaches an agent based instruction system comprising student client system (see Fig. 2A) which provides students with virtual tutors or on-screen agents 9 (instructional/help information) (col 5, lines 21-24). Cook further teaches that the student client system can use CD-ROMs for

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storing information (col 16, lines 13-19) for the purpose of enhancing network efficiency in the case that the network has relatively low bandwidth. Furthermore, the use of CD ROM also provides portability. Hatakama and Cook are in the same field of providing instructional help. It would have been obvious to one of ordinary skill in the art at the time the invention was made, to apply Cook's teaching of storing instructional/help information on CDROM in Hatakama's interactive learning system with the motivation being to enhance network efficiency in case the network has relatively low bandwidth (Cook, col 16, lines 13-19) and provide portability.

Regarding claim 17, Hatakama teaches at least two levels of sophistication of the help information (entry level and intermediate level). Hatakama further teaches that help information can include voice (Hatakama, col 6, lines 6-13). Hatakama differs from the claim in that Hatakama does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice. However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Hatakama's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 18, Hatakama teaches that the two levels of sophistication include a first level (entry level) and a second level (intermediate level). Hatakama further teaches that help information can include motion images (Hatakama, col 6, lines 6-13). Hatakama does not teach that the first level of sophistication comprises a first character and a second level comprises a second character. However, the use of plural characters in instructional help technique is known in the art as taught by Cook. Specifically, Cook teaches an agent based instruction system which provide student with virtual tutors or on-screen agents (col 5, lines 21-24). The on-screen agents can appear as living entities appropriate for level of a student (for example, "Study Buddies" are on-screen agents of grade schoolers or a coach is on-screen agent of an adult) (see col 6, lines 1-5). On-screen agents can be characters (col 10, lines 15). These characters are associated with different help agents of different levels. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural characters associated with plural agents for different help levels in Hatakama's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 19, Hatakama teaches that the two levels of sophistication include a first level (entry level) comprising a first textual content (information presented to the user at entry level) and a second level (intermediate level) comprising a second textual content (information presented to the user at intermediate level) (see col 11, lines 7-12) (also see Fig. 2 and Fig. 7).

Regarding claim 20, Hatakama teaches at least two levels of sophistication of the help information (entry level and intermediate level). Hatakama further teaches that help

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information can include voice (Hatakama, col 6, lines 6-13). Hatakama further teaches that the two levels of sophistication include a first level (entry level) comprising a first textual content (information presented to the user at entry level) and a second level (intermediate level) comprising a second textual content (information presented to the user at intermediate level) (see col 11, lines 7-12) (also see Fig. 2 and Fig. 7).

Hatakama differs from the claim in that Hatakama does not teach that the first level of sophistication comprises a first voice and the second level of sophistication comprises a second voice. However, Cook teaches that plurality of voices/gestures/ motions can be used in the tutoring system (help information) (see col 6, lines 13-16) depending on the individual student. These voices/gestures/motions are associated with different help agents of different levels. For example, "Study Buddies" level are on-screen agents for grade schoolers, and coach level is on-screen agent of an adult (see col 6, lines 1-5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Cook's teaching of using plural voices associated with plural agents for different help levels to provide first and second voices in Hatakama's learning system with the motivation being to provide customized, individualized instructional helps to different people.

Regarding claim 38, Hatakama teaches the information comprises instruction and questions related to the subject (see Fig. 4)

Regarding claim 35, Hatakama and Cook do not teach at least one section of the program having no additional instructional options. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify Hatakama's teaching to have at least one section of the

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program having no additional instructional options with the motivation being enhance the flexibility of Hatakama's system.

Regarding claim 36, Hatakama does not teach at least two sections of the program have additional instructional options and the type of additional instructional information varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the sections, options, and the type of additional instructional information taught by Hatakama to have two sections of the program having additional instructional options and the type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

Regarding claim 37, Hatakama does not teach at least two sections of the program have additional instructional options and the number of levels of sophistication and type of additional instructional information varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the sections, options, the number of levels of sophistication and type of additional instructional information taught by Hatakama to have two sections of the program having additional instructional options and the number of levels of sophistication and type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

Regarding claim 39, Hatakama does not teach at least two sections of the program have the type of additional instructional information varies between the at least

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two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the type of additional instructional information taught by Hatakama to have two sections of the program having the type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

Regarding claim 40, Hatakama and Cook do not teach at least one section of the program having an additional instructional option at one level of sophistication. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama and Cook before him at the time the invention was made, to modify the type of additional instructional information taught by Hatakama to have one section of the program having an additional instructional option at one level of sophistication with the motivation being enhance the flexibility of Hatakama's system.

Regarding claim 41, Hatakama and Cook do not teach at least two sections of the program have additional instructional options and the number of levels of sophistication varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the sections, options, and the number of levels of sophistication taught by Hatakama to have at least two sections of the program having additional instructional options and the number of levels of sophistication varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

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11. Claims 21-23, 25-30, and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatakama.

Regarding claims 21 and 28, Hatakama does not teach at least two sections of the program have additional instructional options and the number of levels of sophistication varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the sections, options, and the number of levels of sophistication taught by Hatakama to have at least two sections of the program having additional instructional options and the number of levels of sophistication varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

Regarding claims 22 and 29, Hatakama does not teach at least two sections of the program have additional instructional options and the type of additional instructional information varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the sections, options, and the type of additional instructional information taught by Hatakama to have two sections of the program having additional instructional options and the type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

Regarding claims 23 and 30, Hatakama does not teach at least two sections of the program have additional instructional options and the number of levels of sophistication and type of additional instructional information varies between the at least

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two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the sections, options, the number of levels of sophistication and type of additional instructional information taught by Hatakama to have two sections of the program having additional instructional options and the number of levels of sophistication and type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

Regarding claims 25 and 32, Hatakama does not teach at least two sections of the program have the type of additional instructional information varies between the at least two sections. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify the type of additional instructional information taught by Hatakama to have two sections of the program having the type of additional instructional information varying between the at least two sections with the motivation being enhance the flexibility of Hatakama's system.

Regarding claims 26 and 33, Hatakama does not teach at least one section of the program having no additional instructional options. It would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama before him at the time the invention was made, to modify Hatakama's teaching to have at least one section of the program having no additional instructional options with the motivation being enhance the flexibility of Hatakama's system.

Regarding claims 27 and 34, Hatakama does not teach at least one section of the program having an additional instructional option at one level of sophistication. It

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would have been obvious to one of ordinary skill in the art, having the teaching of Hatakama and Cook before him at the time the invention was made, to modify the type of additional instructional information taught by Hatakama to have one section of the program having an additional instructional option at one level of sophistication with the motivation being enhance the flexibility of Hatakama's system.

Response to Applicant's arguments

12. Applicant's arguments filed on 01/05/07 have been fully considered but they are not persuasive.

Applicant's argument on the 35 U.S.C. 101 rejection is not persuasive.

Regarding claims 16-20 and 35-41, it is noted that "a lesson in the form information on a digital media" as claimed is subject to copyright, not subject to patent. Therefore, the "interactive learning system" as claimed does not belong into any one of four statutory categories (process, machine, manufacture, or composition of matter) for patents.

Regarding arguments on Affidavits filed on 07/15/05, 08/07/06, and 10/06/06, see sections 2 and 3.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached at 571-272-4048.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Kieu D. Vu". The signature is fluid and cursive, with the first name "Kieu" being more prominent.

Kieu D. Vu
Primary Examiner